

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ADAM PICONE, )  
Plaintiff, ) 2: 15-cv-01057  
v. ) Judge Mark R. Hornak  
NORTHEAST OHIO CORRECTIONAL )  
CENTER and U.S. MARSHAL )  
SERVICE, )  
Defendants. )

**MEMORANDUM ORDER**

On August 12, 2015, the above captioned case was initiated by the filing of a Motion for Leave to Proceed *in forma pauperis* (ECF No. 1), with attached prisoner civil rights complaint, and was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges.

According to the Complaint, Plaintiff is a pre-trial detainee in the custody of the U.S. Marshal Service and incarcerated at Northeast Ohio Correctional Center (“NEOCC”) in Youngstown, Ohio. The Complaint, liberally construed, includes claims of inadequate medical care in violation of the Eighth and Fourteenth Amendments to the United States Constitution, as well as a medical malpractice claim under state law. It appears that all of the claims stem from Plaintiff’s medical treatment, or alleged lack thereof, while he has been incarcerated at NEOCC. The Magistrate Judge filed a Report and Recommendation (ECF No. 3) recommending that the case be transferred to the United States District Court for the Northern District of Ohio because

NEOCC is located within the territorial limits of the United States District Court for the Northern District of Ohio.

The Report and Recommendation was mailed to Plaintiff at his listed address of record. Plaintiff was advised that he had until September 18, 2015, to file written objections to the Report and Recommendation. To date, no objections have been filed and Plaintiff has not sought an extension of time in which to file any objections. There is no indication that Plaintiff failed to receive the report and recommendation.<sup>1</sup>

The Court has reviewed the matter *de novo*, and concludes that the Report and Recommendation correctly concludes that venue in this District does not lie and that this action should be transferred to the Northern District of Ohio. After such *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 30<sup>th</sup> day of September, 2015:

**IT IS HEREBY ORDERED** that this prisoner lawsuit filed under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), be **TRANSFERRED** forthwith to the United States District Court for the Northern District of Ohio.

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<sup>1</sup> On August 25, 2015, Plaintiff's counsel in his criminal case, filed at 14-cr-00058, filed a motion indicating that Plaintiff was currently detained at SCI Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233, serving a state sentence. However, on September 9, 2015, Plaintiff filed, in this case, a motion to appoint counsel. The envelope containing that motion is postmarked "Cleveland, Ohio" and the return address indicates Plaintiff is incarcerated at NEOCC in Youngstown, Ohio. Furthermore, on this date, the Court has confirmed with the U.S. Marshal's office in Pittsburgh, PA, that Plaintiff remains incarcerated at NEOCC.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 3) dated September 1, 2015, is **ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that a ruling on Plaintiff's *in forma pauperis* motion (ECF No. 1) and motion for appointment of counsel (ECF No. 4) be deferred to the transferee court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.



Mark R. Hornak  
United States District Judge

cc: ADAM PICONE  
35151-068  
Northeast Ohio Correctional Center  
2240 Hubbard Road  
Youngstown, OH 44505